

TOWN OF LANESBOROUGH SELECTMEN'S MEETING

Submitted by Diane Stevens, Town Secretary

February 8, 2016

Present: Mr. John Goerlach, Chair
Mr. Robert Ericson
Mr. Henry Sayers
Mr. Paul Sieloff, Town Manager

Warrants: Warrant Signed

The meeting was opened by John Goerlach at 6:00 p.m.

Public Comment

Mr. Goerlach asked Mr. Sieloff to read a letter from Finance Committee member Ray Jones to the Board of Selectmen relative to the last Finance Committee meeting. Mr. Goerlach asked Finance Committee member Steve Wentworth if Finance Chair Al Terranova would attend the meeting. Mr. Wentworth stated that Mr. Terranova was unable to attend. Mr. Goerlach asked Mr. Wentworth if the Finance Committee could give the Board the effect on the tax rate relative to the recent mall store closings by the next meeting. Mr. Wentworth stated they he would bring the request back to the Committee. Mr. Tinkham stated that he believed that the impact on the tax rate would be approximately \$3.37 per thousand. Mr. Wentworth asked Mr. Goerlach for a copy of the letter.[#1]

Permit(s) / Contract(s) / Use of Town Property or Notification to Town of Community Event / Appointment(s)

Assistant Town Clerk – Diane Stevens. Motion 16-019. Motion made by Robert Ericson to appoint Diane Stevens as Assistant Town Clerk, seconded by Henry Sayers. Motion carried 3-0.

Assistant Town Clerk – Lisa Wellspeak. Motion 16-020. Motion made by Robert Ericson to appoint Lisa Wellspeak as Assistant Town Clerk, seconded by Henry Sayers. Motion carried 3-0.

Ambulance Enterprise Fund Committee - Lynne Lemanski. Motion 16-021. Motion made by Robert Ericson to appoint Lynne Lemanski to the Ambulance Enterprise Fund Committee, seconded by Henry Sayers. Motion carried 3-0.

Sewer Enterprise Fund Committee – Lynne Lemanski. Motion 16-022. Motion made by Robert Ericson to appoint Lynne Lemanski to the Sewer Enterprise Fund Committee, seconded by Henry Sayers. Motion carried 3-0.

22 Narragansett Avenue Nuisance Complaint

Attorney Thomas Hamel came before the Board on behalf of his clients Mr. and Mrs. Clarke Gable relative to a nuisance complaint filed against Kara Zaks. Attorney Hamel presented the Board with a petition from the abutters to the Zaks property which was highlighted on a map also presented to the Board. Attorney Hamel also presented the Board with a summary of past negotiations between Ms. Zaks and Mr. and Mrs. Gable. Attorney Hamel stated that while he realized that Lanesborough was a Right to Farm Community he believes that this Bylaw was not created to take place in a congested residential section. Attorney Hamel stated that the property is in an R zone not an RA zone and Section 40A, Section 3 limits zoning on anything under 5 acres. Attorney Hamel stated that this situation has been on-going and presented the Board with pictures in sequence showing how large Ms. Zaks' enclosure has grown over the past several years. Attorney Hamel stated that the noise coming from the roosters is debilitating to the neighborhood, especially his clients, and played videos for the Board depicting the noise. Attorney Hamel asked the Board to limit the amount of fowl on the property and possibly make Ms. Zaks bring her structure back to its 2013 status which was shown in the pictures presented to the Board. Attorney Hamel stated that several neighbors were present. Mr. Goerlach asked the neighbors if they would like to speak. Mr. Barton stated that his summer cottage is located near the property and in a residential area some sort of balance needs to occur. Mr. Barton presented the Board with a summary of restrictions adopted in other communities and hopes there can be reasonable limits set. Mr. Goerlach asked Ms. Zaks if she would like to speak. Ms. Zaks stated that she realized her enclosure has grown in size but she would like to work together with the Gables to resolve this. Ms. Zaks informed the Board that she is breeding the roosters and has purchased collars to reduce the noise and has attempted to work with the Gables to no avail. Attorney Hamel asked if all the roosters have collars. Ms. Zaks stated that younger roosters don't have collars but as soon as they start to crow she applies one. Attorney Hamel asked if the video is a fair depiction of what happens each

morning. Ms. Zaks stated mostly and she tries to adjust collar so it is less audible. Gordon Zaks told the Board that before the collars were applied he could hear the roosters from his property but now he cannot. Ms. Zaks asked Attorney Hamel the date the video was taken. Attorney Hamel stated it was taken on January 28th. Ms. Zaks stated that a collar has been applied since that date. Ms. Zaks stated that she would be willing to minimize the amount of birds as she would like to be able to keep her business. Attorney Hamel asked what that number would be. Mr. Goerlach stated that Town Counsel informed the Board that 6 chickens could feed a family of 3. Mr. Goerlach asked Michelle Johnson who was in attendance how many birds she had. Ms. Johnson stated that she has 3 ¾ acres and has 14 chickens on her property. Ms. Zaks stated that she understands what Mr. Gable is going through and is trying to accommodate him. Ms. Zaks agreed to purchase an 8 foot solid fence which has been installed but she is not financially able to do what Mr. Gable is requesting. Mr. Goerlach asked if she would reduce the number of birds. Ms. Zaks stated that 20 are up for sale. Ms. Zaks stated there are approximately 80 fowl (40 ducks – 3 roosters she would like to keep [5 more are up for sale] and all but one have collars and the remaining are silkies [a type of chicken] which are very quiet). Ms. Zaks uses the eggs and the ducks to feed her family. Ms. Zaks stated that she started with 15 or 20 in 2013. Mr. Sayers reminded Ms. Zaks of her statement at the last Town Meeting where she stated she would reduce her flock. Attorney Hamel stated that other communities have adopted a limit of 6 birds without roosters and the first picture, which is Ms. Zaks' original structure from 2013, is reasonable. Mr. Ericson asked the residents to try to negotiate and told Ms. Zaks that other neighbors are also affected. Mr. Ericson stated that at Town Meeting Ms. Zaks stated that she would reduce the flock and has not done so. Mr. Ericson stated that the Bylaw should take into effect that the acreage depicted on maps is not accurate due to other structures on properties (i.e. driveway, house, etc.). Attorney Hamel asked Ms. Zaks to give an approximate value of what her birds were worth. Ms. Zaks gave Attorney Hamel a figure. Attorney Hamel stated his client would purchase them all for that price. Mr. Goerlach asked attendees if Ms. Zaks reduced her numbers would that be acceptable. Jane Gable believed it should not be allowed to have numerous amounts of animals in a constricted residential area. Mrs. Gable would not like even 24 birds in her neighborhood. Lori Tucker said she cannot leave her windows open in the summer due to smell and noise. Clarke Gable, Sr. believes property values will go down based on this issue. Ms. Tucker stated there must also be a time line for the sale. Mr. Goerlach asked the parties to step into the hallway to try to resolve the matter.[#2 & #3]

Right of Way Proposal – Narragansett Causeway Project – Karen Axtell, MASSDOT Representative

Mr. Sieloff informed the Board that Karen Axtell from MassDOT would not be present at the meeting due to weather conditions. Mr. Sieloff stated that the Commonwealth is going to replace the causeway and will be starting construction soon. As part of the process MassDOT needs the Town to have the authority to take certain parcels of land as a right of way which would need to be voted on at the Special Town Meeting. Mr. Sieloff stated that MassDOT has coordinated with Town Counsel for the language that is on the Warrant which the Board needs to approve. Bob Barton stated that he believed that the Board already had this authority and asked if it was just for this project. Mr. Sieloff stated that this is just for this project. Mr. Barton made suggestions as to things that could be done as far as parking. Mr. Sayers stated that any additional work out of the scope would not be paid for by the Commonwealth but would have to be paid for with Town funds. Mr. Ericson stated that he is not in favor of taking people's land unless it is absolutely necessary. Mr. Goerlach stated that when the mall road was constructed easements were taken by eminent domain and people were paid fairly for their property. Mr. Sayers stated that since the Commonwealth is funding this project the vote needs to take place so the project would not be delayed. Mr. Sieloff presented the Board with the proposed Article to be placed on the Warrant for the Special Town Meeting. Motion 16-023. Motion made by Robert Ericson to approve Article 1 of the Special Town Meeting Warrant, seconded by Henry Sayers Motion carried 3-0.

Vote on Recommendations by Board of Selectmen on Special Town Meeting Articles

Motion 16-024. Motion made by Henry Sayers to recommend Article 1 of the proposed Special Town Meeting Warrant, seconded by Robert Ericson Motion carried 3-0. Mr. Sieloff presented the Board with Article 2 which he stated is for a non-binding vote. Carrie Greene, Chair of the Mount Greylock School Committee asked the Board if they would read the Article aloud. Mr. Sieloff read the Article. Mr. Ericson would like to change the language to remove the word "approximate" and put in the exact amount of money to be appropriated. Ms. Greene stated that the exact figure is \$63,887,706. Motion 16-025. Motion made by Robert Ericson to approve the Article with his recommended changes. No second. Motion failed. Mr. Sayers stated that he would like it to be a discussion rather

than a vote. Mr. Sieloff stated that the language could be changed to reflect a discussion rather than a vote and remove the language "a resolution supporting." Motion 16-026. Motion made by Henry Sayers to place Article 2 on the Warrant of the Special Town Meeting after replacing the word vote with discuss, removing the resolution language and removing the word approximate and replacing it with \$63,887,706, seconded by Robert Ericson Motion carried 3-0. Michelle Johnson asked the Board why there is a Special Town Meeting. Ms. Johnson believes it is a waste of money to have a Special Town Meeting rather than a public forum. Mr. Sayers stated that the Special Town Meeting was necessary to move forward with the Narragansett Avenue Causeway project. Mr. Goerlach stated that the Board was going to include other items on the Warrant but choose not to so that discussions could take place on the Mount Greylock Building Project. Mr. Goerlach stated that the Board has been discussing a Special Town Meeting for this discussion for quite some time.

Approve Special Town Meeting Warrant

Motion 16-027. Motion made by Robert Ericson to approve the Special Town Meeting Warrant with revisions, seconded by Henry Sayers. Motion carried 3-0.[#4]

Mr. Sieloff read the Warrant for the Debt Exclusion Election which was sent to him by Carrie Greene. Motion 16-028. Motion made by John Goerlach to approve the Warrant for Debt Exclusion as read, seconded by Robert Ericson Motion carried 3-0. [#5]

Heavy Vehicle Use/Temporary Access Permit - \$10,000 Surety Bond requirement for contractors

Mr. Sieloff asked the Board for clarification as to how they wished to move forward with this document. Mr. Goerlach advised Mr. Sieloff as to how the document should be worded. Mr. Sieloff stated that he would have a revised document at the next meeting.

Survey letter to Town residents – status

Mr. Sieloff stated that today is the last day to submit the survey. Approximately 500 have been received and he will have a report for the Board by their next meeting.

Budget Update & Proposed Schedule

Mr. Sieloff told the Board that the preliminary budget should be completed within the next week or so. Mr. Sieloff stated that he is working on the Capital Plan and will keep Board updated.

Other business which could not have been reasonably foreseen within 48 hours of the meeting.

None.

Selectmen's Items

Mr. Sayers asked if Mr. Sieloff if he had spoken to the DPW Director regarding damage caused on Churchill Street. Mr. Sieloff stated that he had been informed and that the logger stopped in to Town Hall today and stated that it was not his vehicle that had done the damage but rather the towing company that came to remove his vehicle. Mr. Sayers asked if the tow company was liable for the damage. Mr. Sieloff stated that the DPW Director was going to get in contact with the owner. Mr. Ericson informed the Board about the progress with the Energy Committee and the Police Department and the Town Hall projects and asked the other Board members if they were in agreement with presenting drawings to the Green Community Grant for liquidation of some of the funds. Mr. Goerlach asked Mr. Ericson if he was intending to do any work at the Police Station as they were trying to rectify the air quality complaint filed by the Police Union. Mr. Ericson stated that he is not doing any work there at this time. The Board were in agreement with the Energy Committee filing the necessary paperwork to get reimbursement only. Mr. Goerlach asked Mr. Sieloff about the Police Station air quality. Mr. Sieloff stated that he had someone clean and they have replaced some rugs and an air quality report has been submitted to the Town. Mr. Sieloff will forward the report to the Board. Mr. Goerlach asked Mr. Sieloff if he had met with the Board of Health regarding the fowl issue. Mr. Sieloff stated that he had not met with the Board of Health but Town Counsel suggested this matter be resolved through a regulation through the Board of Health. Mr. Goerlach would like to set up a meeting with the Board of Health and the Building Inspector. Mr. Sieloff stated that Town Counsel is ready to go forward as a Board of Health regulation which he will present to the Board of Health to

adopt. If the Board of Health objects to adopting a regulation he will notify the Selectmen. Mr. Goerlach would like to see language before it is presented.

Attorney Hamel reported to the Board that they had not reached a resolution and asked the Board if they could re-present at their next meeting. Ms. Zaks stated that Mr. Barton offered to house some of her birds and asked if the Board would be willing to accept 30 birds and she will look to find homes for the others. Attorney Hamel stated that the roosters will need to be relocated. Ms. Zaks stated that she would be willing to relocate the roosters and call ducks. Attorney Hamel asked if a Bylaw will allow for this business “as is” to be grandfathered in. Mr. Goerlach stated it would not. Mr. Goerlach stated that he will contact another farm owner who is closer to Ms. Zaks to see if they can house the animals. Mr. Goerlach informed the participants to come to the meeting on February 22nd and they will be placed first on the Agenda. Attorney Hamel is advocating for 15 to 20 fowl with no roosters. Mr. Barton cautioned the Board against using the word “rooster” as there are other birds that make noise and possibly use the terms “screamers” in the Bylaw. Mr. Sieloff stated that the Bylaw relates to those properties which are less than 1 acre.

Town Manager Report

Mr. Sieloff stated that his report was contained in the earlier discussions in the meeting.

Approve Minutes

Motion made by Henry Sayers to approve the Minutes of January 25, 2016, seconded by Robert Ericson. Motion carried 3-0.

Adjournment

Motion to adjourn meeting made by Henry Sayers, seconded by Robert Ericson. Motion carried 3-0. Meeting adjourned at 8:19p.m.

Footnotes:

[#1] Letter from Ray Jones

[#2] Letter and supporting documentation from Thomas Hamel, Esq. re: Narragansett Nuisance Complaint

[#3] Documentation received from Gordon Zaks re: Narragansett Nuisance Complaint

[#4] Special Town Meeting Warrant

[#5] Mount Greylock High School Debt Exclusion Warrant